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[2] receiving, at said at least one origination transmitter station, said at least one control signal which at the remote intermediate transmitter station operates to control the communication of said instruct signal; and

[3] transmitting said at least one control signal from said at least one origination transmitter station to said at least one origination transmitter before a specific time.

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15. The method of claim 14, further comprising the step of embedding a specific one of said one or more control signals in said instruct signal or in an information transmission containing said instruct signal before transmitting said instruct signal to said remote transmitter station.

16. The method of claim 14, wherein said specific time is a scheduled time of transmitting said instruct signal or some information associated with said instruct signal from said remote intermediate data transmitter station and said one or more control signals are effective at said remote intermediate data transmitter station to control one or more of said plurality of selective transmission devices at different times.

## II. REMARKS

### A. Introduction

The Office Action dated May 16, 1998 has been carefully reviewed and the foregoing amendments made in response thereto.

Claims 2, 3, 5, 8, 9, 13, and 14 are amended. Claims 2-16 are pending in the application.

Claims 2, 3, 5, and 7 stand rejected under 35 U.S.C. § 102 (e) as being anticipated by USP 4,455,570 to Saeki, hereinafter Saeki '570.

Claims 8-16 stand rejected under 35 U.S.C. § 102 (e) as being anticipated by USP 4,536,791 to Campbell, hereinafter Campbell '791.

Claims 4 and 6 rejected under 35 U.S.C. § 103 (a) as being unpatentable over Saeki '570 in view of USP 4,225,884 to Block, hereinafter Block '884.

Claims 2-16 remain active in this application. No new matter is presented in the foregoing amendments. Approval and entry of same is respectfully requested.

#### **B. Administrative Requirement**

Applicants submit that the Office Action filed 5/28/98 has not responded to Applicants' traversal (3-2-98) of the Administrative Requirements in paragraph 5 and 6 of the previous Office Action dated 12/31/97. The requirements include Double Patenting Between Applications and the Information Disclosure Statements. The office action filed 5/28/98 fails to formally maintain or withdraw the requirements. Action is respectfully requested.

#### **C. Response to Rejection of Claims for Absence of Novelty**

Applicants respectfully submit that the claims in the present application should be allowed because these methods are not disclosed, taught, suggested, or implied by the applied prior art. For a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention.

*Scripps Clinic & Research Foundation v. Genetech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001, 18 USPQ2d 1896 (Fed. Cir. 1991). Absence from a cited reference of any element of a claim negates anticipation of that claim by the reference. *Kloster Speedsteel AB v Crucible, Inc.*, 230 USPQ 81 (Fed. Cir. 1986), *on rehearing*, 231 USPQ 160 (Fed. Cir. 1986).

##### **1. 35 U.S.C. § 102 (e) Rejection over Saeki '570**

Claims 2, 3, 5, and 7 stand rejected under 35 U.S.C. § 102 (e) as being anticipated by Saeki '570.

With respect to Applicants' **claim 2**, Saeki '570 fails to teach, *inter alia*, receiving, at said receiver station, from said input device a set of information collection parameters, each of which

is separately inputtable through said input device. The office action equates keyboard 44 of Saeki '570 to Applicants' claimed input device. Applicants submit that although the keyboard of Saeki '570 is used to input commands and select codes for viewing data, the keyboard does not function as Applicants claim. For example, Saeki '570 teaches that keyboard 44 is depressed and a signal is applied through branching unit 41-1 to both the switch controller 41-2 and the command signal generator 41-3. There is no suggestion that the input signal of Saeki '570 by depression of keyboard 44 is received and stored as a set of information collection parameters at a receiver station (viewer homes 2 as indicated in the office action) as so claimed. Instead, Saeki '570 clearly teaches that the keyboard 44 entered signal is used by the switch controller 41-2 to supply switch control signals to switch circuits 40 and 41, while command signal generator 41-3 uses the input signal to generate a command signal to be transmitted to center 1. In addition, Saeki '570 simply teaches that upon depression of keyboard 44 a signal or a code results. There is no suggestion, inherent or otherwise of a set of anything, especially a set of information collection parameters or a set of separately inputtable information collection parameters, as claimed by Applicants.

Further, there is no suggestion of storing the set of information collection parameters at said receiver station. The input signal by keyboard 44 of Saeki '570 is instead used by the switch controller 41-3 and command signal generator 41-3 to transmit a command signal to center 1 (data network connection as indicated in the office action). The transmitted command signal of Saeki '570 causes center 1 to transmit a video data list through switch 40 to television set 11 so that the corresponding picture is reproduced on the television set 11. Therefore, if the user selects the number representing the data and depresses the corresponding number on the keyboard 44, a corresponding video command signal is applied from the command signal generator 41-3 to center 1, where the data processing section 31 reads out video data

corresponding to the selected code out of the data memory section 32 at center 1. Col. 7 lines 3-18. There is no suggestion in Saeki '570 of first receiving a set of separately inputtable information collection parameters at a receiver station then storing such at the same receiver station. Saeki '570 simply uses keyboard 44 to access the stored data list at center 1 for display on television set 11. Col. 7 lines 3-18. Further, although, Saeki '570 teaches storing the coarse data of the data list at video memory section 42 at the home terminal 2, the data is not first inputted, received at a receiver station, then stored at a receiver station. In contrast Saeki '570 teaches inputting a code, using the code to access a stored data list at center 1, then displaying and storing the accessed data list from center 1 at the home terminal 2. Saeki '570 fails to suggest or describe Applicants' claimed invention.

Saeki '570 fails to suggest or describe generating a query from said set of information collection parameters stored at said receiver station. As discussed, Saeki '570 is silent as to any set of information collection parameters, each being separately inputtable. Further, Saeki '570 is silent as to receiving and then storing the inputted set of information collection parameters at a receiver station. Therefore, Saeki '570 is silent as to generating a query from said set of information collection parameters stored at said receiver station. In addition, the office action equates the data list of Fig. 4 to Applicants' claimed query. Applicants submit that although, Fig. 4 illustrates a question, e.g., "[w]hich information do you need?", there is no suggestion of generating a query in the manner as claimed by Applicants. Instead, Saeki '570 simply illustrates a list of various data in fig. 4 which is sent to home terminal 2 for display on television set 11. Col. 7 lines 3 and 4 and Fig. 4. Further, although, Saeki '570 teaches generating a command signal at generator 41-3, in order to access the data list at center 1. There is no suggestion that the generate command signal is from any set of information collection parameters that is first inputted, received, and stored at a receiver station, as claimed by Applicants.

As stated, Saeki '570 is silent as to generating a query in the manner as claimed by Applicants. Therefore, Saeki '570 fails to suggest or describe promulgating said query from said receiver station through said data network connection to a data network. Although, Saeki '570 generates a command signal by using the keyboard inputted signal in order to access the stored data list at center 1, there is no suggestion that the generated command signal of Saeki '570 is generated based on a separately inputtable information parameters that are received and stored at a receiver station, as so claimed by Applicants.

Saeki '570 fails to suggest or describe receiving operating instructions in response to said step of promulgating a query and storing said operating instructions at said data storage device at said receiver station. As stated, Saeki '570 is silent as to generating any query that functions as Applicants claim or is that generated in the manner in which Applicants claim. Further, Saeki '570 is silent as to promulgating the query. Therefore, Applicants submit that since Saeki '570 is silent as to any query, Saeki '570 is also silent as to operating instructions that are received based on promulgating the query. As stated, the only signal that is generated at the home terminal 2 (receiver station as indicated in the office action) in response to codes inputted at the keyboard is the command signal. However, the command signal, which is sent to center 1 fails to cause the home terminal to receive operating instructions. Instead, center 1 transmits data lists in response to the generated command signal. However, the data lists do not function as Applicants' claimed operating instructions. Further, the generated command signal is not generated based on any separately inputtable information collection parameter sets that are received and then stored, as claimed by Applicants. Therefore, Saeki '570 fails to anticipate Applicants claimed operating instructions. Furthermore, Saeki '570 is silent as to storing such. Although, the received data lists of Saeki '570 are displayed and stored, there is no suggestion of storing operating instructions that function or are received in the manner as claimed by Applicants.

With respect to Applicants' **claim 5**, Saeki '570 fails to teach, *inter alia*, performing said function based on said operating instructions or executable code at said receiver station. The office action has equated the data lists of Fig. 4 to Applicants' claimed operating instructions or executable code. Applicants submit that the data lists simply indicate a code to be selected by the user in order to view information. There is no suggestion that the list of data performs any function in Saeki '570. In fact, it is the user's selecting of the code on the keyboard that causes Saeki '570 to perform.

Further, Saeki '570 fails to suggest or describe providing operating instructions or executable code to a plurality of receiver stations from said plurality of data information sources. The office action equates the peripheral equipment 27 and the data list of Fig. 4 to Applicants' claimed data information sources and operating instructions or executable code, respectively. Applicants submit that Saeki '570 teaches transmitting data lists from center 1 (which includes peripheral equipment 1) to the home terminal 2 (receiver station as indicated in the office action). However, there is no suggestion that the data lists perform as Applicants' claimed operating instructions or executable code, as stated above. Further, there is no suggestion that the peripheral equipment 27 is a plurality of data information sources that provide operating instructions or executable code to the home terminals. Instead, peripheral equipment 27 of Saeki '570 is simply a printer or a display unit for providing output at center 1. Col. 1 lines 51 and 52. There is no teaching that the printer or display unit is capable of providing any instructions or code for the home terminals.

Further, Saeki '570 fails to suggest or describe recording an identification of said performed function at said data storage device at said receiver station. As stated, Saeki '570 fails to perform any function that is caused by operating instructions or executable code in the manner as claimed by Applicants. Furthermore, the video RAM at the home terminal 2 of Saeki '570 is

simply used to store coarse data of the received data list. There is no suggestion that the RAM records identification of any functions performed in the manner as claimed by Applicants.

Further, Saeki '570 is silent as to transferring said record of identification to a data collection station on said data network through said receiver station network connection. As stated, Saeki '570 is silent as to recording any identification of a performed function. Therefore, Saeki '570 fails to suggest or describe transferring the record from a receiver station to a data collection station. The office action equates center 1 and the commands input on keyboard 44 of Saeki '570 to Applicants' claimed data collection terminal and record. Applicants disagree with this interpretations and submit that although the depression of a number on the keyboard causes a command signal to be transmitted to center 1, there is no transferring of any record per se. Instead, a command signal generator 41-3 generates a command signal to be transmitted to center 1, wherein the command signal causes center 1 to transmit the data lists to home terminal 2. Not only is Saeki '570 silent as to recording any identification of a performed function, Saeki '570 is further silent as to transferring any record from home terminal 2 to center 1. Saeki '570 fails to anticipate Applicants' claimed invention.

Claims 3 and 7 depend upon independent either claim 2 or claim 5. As discussed *supra*, Saeki '570 fails to disclose every element of claims 2 and 5 and thus, *ipso facto*, Saeki '570 fails to anticipate dependent claims 3 and 7, and therefore, this rejection should be withdrawn and the claim be permitted to issue.

Applicants respectfully submit that the cited art does not anticipate claims 2, 3, 5, and 7 since the reference fails to disclose every element of the claimed invention, and Applicants respectfully request that the 35 U.S.C. § 102 (b) rejection of claims 2, 3, 5, and 7 be withdrawn.

## 2. 35 U.S.C. § 102 (e) Rejection over Campbell '791

Claims 8-16 stand rejected under 35 U.S.C. § 102 (e) as being anticipated by Campbell '791. Applicants maintain that the rejection based upon Campbell is improper under either 35 U.S.C. § 102(b) or 35 U.S.C. § 102(e). The claims stand rejected under 35 U.S.C. § 102 (b or e) depending on the effective filing date. As noted above, all of the claims as herein presented are supported by Application Serial No. 317,510, filed November 3, 1981, and on which the instant application claims priority. The effective filling date for every pending claim is, thus, November 3, 1981. As Campbell issued after this effective filing date, Campbell is not available as a reference under 35 U.S.C. § 102(b).

Applicants further submit that a proper rejection under 35 U.S.C. § 102(e) has not been established in the Office Action. Under 35 U.S.C. § 102(e) an issued patent that was filed in the United States prior to the invention by Applicants of the claimed subject matter may be relied upon to show anticipation. Campbell issued from U.S. Application Serial No. 617,137 filed June 4, 1984, which is subsequent to the effective filing date of Applicants' claims. However, Campbell claims priority as a continuation of Ser. No. 348,937 filed November 27, 1981, which is a continuation-in-part (CIP) of Ser. No. 135,987 filed March 31, 1980. The earliest filing date of March 31, 1980, is apparently relied upon in the Final Office Action. However, "In order to carry back the 35 U.S.C. § 102(e) critical date of the U.S. patent reference to the filing date of a parent application, the parent application must . . . support the invention as required by 35 U.S.C. § 112, first paragraph." MPEP § 2136.03 (citing *In re Wertheim*, 646 F.2d 527, 209 USPQ 554 (CCPA 1981)). There is no showing in the Final Office Action that the application filed March 31, 1980, supports the claims in Campbell. A proper rejection under 35 U.S.C. § 102(e) has not, therefore, been established in the Final Office Action.

Also, it has not been demonstrated in the Office Action that the disclosure of the parent application filed March 31, 1980, includes the subject matter that is applied against the present application to negate patentability under 35 U.S.C. § 102(e). "[W]hen the reference is a continuation-in-part of an earlier filed application . . . and it is necessary to go back to the earlier

filings date, the fact that the subject matter relied upon was originally disclosed on that date in the first application should be stated.” MPEP § 707.05(e). Applicants submit that since the chain of applications relied upon includes a continuation-in-part application, the disclosure of the issued patent may not be applied under 35 U.S.C. § 102(e) without demonstrating that the subject matter relied upon was disclosed in the application that was filed prior to the effective filing date of Applicants’ claims. In the Office Action, it is asserted that all the features relied by the examiner to support the rejection were supported by the Campbells’ parent application. There is no support provided for this assertion. The rejection in the Office Action under 35 U.S.C. § 102(e) includes no demonstration that the subject matter relied upon was disclosed in the application filed March 31, 1980. Accordingly, a proper rejection under 35 U.S.C. § 102(e) has not been established.

In the Office Action, it was also noted that the Campbell has a PCT equivalent application that was published in October of 1981. The PCT publication has not been cited against Applicants’ claims. Notwithstanding, the PCT publication is not prior art under 35 U.S.C. § 102(b) because it was not available more than one year prior to the effective filing date of Applicants’ claims. The PCT application is also not prior art under 35 U.S.C. § 102(e) because it is not an application for patent filed in the United States.

Notwithstanding the availability of Campbell as prior art, Campbell fails to anticipate Applicants’ claims as asserted in the Office Action. The following arguments demonstrate that Applicants’ claims are patentably distinguishable from the invention disclosed in Campbell.

With respect to Applicants’ **claim 8**, Campbell ‘791 fails to teach, *inter alia*, programming said computer to store a portfolio of data that designates a plurality of subscriber personal interests. The office action equates the text data, i.e., the data from a variety of sources such as weather, news, stock, etc., of Campbell ‘791 to Applicants’ claimed portfolio of data. Applicants first submit that the text data is simply formatted for video transmission and transmitted in text from to HVP units 52,53 for insertion into the vertical interval of the video

signal. There is no suggestion of programming a computer at receiver station to store the text data of Campbell '791. Secondly, although the text data of Campbell '791 may be of interest to some subscribers, there is no suggestion of programming a computer to store text data that is of a *personal* interest to a particular subscriber.

Further, Campbell '791 fails to suggest or describe receiving, at the receiver station from said transmitter station, a portion of a presentation control signal or mass medium programming on the basis of a comparison with said portfolio of data stored in said computer and said programming of interest. The office action equates control word 200 of col. 13 lines 1-68 to Applicants claimed presentation control signal or mass medium programming. Applicants submit that although the control word is received at converter 40 in Campbell '791, there is no suggestion that the control word is received based on any comparison. In fact, control word 200 is actually used by converter control logic in various comparisons to determine eligibility of the subscriber to receive selected programming. Further, the comparisons of converter 40 of Campbell '791 at col. 15 lines 1-68 are not performed with data that is of a personal interest stored at a pre-programmed computer, as claimed by Applicants. Instead, Campbell '791 performs comparison with control word 200 (control signal or mass medium programming as indicated in the office action), where if yes is answered to any of the decision steps, a message instructs a user to enter a confidential code. Not only does Campbell '791 fail to conduct comparisons with data of a personal interest stored at a computer, Campbell '791 is also silent as to receiving a portion control signal or mass medium programming at a receiver station based on the comparisons.

As stated, Campbell '791 is silent as to storing a portfolio of data or comparing such with subscriber programming of interest in the manner as claimed by Applicants. Therefore, Campbell '791 is utterly silent as to presenting a unit of mass medium programming at a

computer peripheral location on the basis of said data or said subscriber programming of interest received from said transmitter station and communicating from said receiver station a datum of said unit of mass medium programming or said portion of a presentation control signal.

Although, Campbell '791 transmits programming to a subscriber, the transmission is not based on any data, subscriber programming of interest, or presentation control signal that functions in the manner as claimed by Applicants.

With respect to Applicants' **claim 9**, Campbell '791 fails to teach, *inter alia*, receiving at a transmitter station downloadable code which is effective at said at least one of a plurality of receiver stations to store operating instructions at a storage device associated with said processor. The office action equates the event enable word 220 of Campbell '791 to Applicants' claimed downloadable code. Applicants disagree and submit that the event enable word is simply stored at control logic 104 and used to control subscriber access at a particular time on a given channel during which a special event is transmitted. There is no suggestion that the event enable word 20 is effective at the converter 40 to actually store operating instructions. Instead, all the words generated by PCS 50 are stored at converter 40 in control logic 104 in order that the appropriate codes are stored at the time the special event is broadcast so the user can view the program on the indicated channel. The event enable word 220 is simply one of the stored codes. Col. 14 lines 1-8. The even enable word 220 is not effective to store operating instructions as so claimed.

Further, Campbell '791 fails to suggest or describe receiving said at least one control signal at said transmitter station, wherein said at least one control signal operates to execute said operating instructions. The office action equates control word 200 to Applicants' claimed control signal. Applicants submit that control word 220 is simply one of the codes stored at control logic 104 of converter 40 to determine authorization of selected subscriber programming. There is no suggestion that control word 200 is capable of executing any operating instructions,

especially operating instructions that are stored in response to downloadable code (event enable word 220 as indicated in the office action). Instead, control word 200 and event enable word 220 are simply the codes necessary in order to allow the subscriber to receive programming.

Campbell '791 is further silent as to transmitting at least one information transmission comprising said downloadable code and said at least one control signal. As stated, Campbell '791 fails to suggest or describe any downloadable code or a control signal that functions as Applicants claim. Therefore, Campbell '791 is utterly silent as to transmitting an information transmission comprising the same. Campbell '791 fails to anticipate Applicants' claimed invention.

With respect to Applicants' **claim 13**, Campbell '791 fails to teach, *inter alia*, storing data at said remote data source. The office action equates the text data, i.e., the data from a variety of sources such as weather, news, stock, etc., of Campbell '791 to Applicants' claimed data. Applicants first submit that the text data is simply formatted for video transmission and transmitted in text form to HVP units 52, 53 for insertion into the vertical interval of the video signal. There is no suggestion of storing the data at a remote data source.

Campbell '791 fails to suggest or describe transmitting from said remote data source an instruct signal which is effective at said receiver station to store operating instructions at a storage device associated with a processor, wherein said operating instructions are effective to perform said first of said plurality of different functions. The office action equates the tier code of Campbell '791 to Applicants' claimed operating instructions (the office action fails to equate Applicants' claimed instruct signal). Applicants submit that the tier codes of Campbell '791 do not function as Applicants' claimed operating instructions. Campbell '791 simply teaches that the tier codes 202 of channel control word 200 define the level of access required for the program in question. There is no suggestion that the tier codes are effective to perform a first of a

plurality of functions (pay-per-view programming as indicated in the office action). In fact, the tier codes are for use in Campbell '791 one-way system, while the pay-per-view feature of Campbell '791 is described as one of Campbell's two-way system functions. Further, the tier codes simply are compared by the converter 40 in order to provide the subscriber access to different tiers of service. Furthermore, there is no suggestion of any instruct signal that is effective to store any operating instructions that function as claimed by Applicants (tier codes as indicated in the office action). Campbell '791 does teach channel control signals which cause the converter to compare the tier codes and various other codes. However, Campbell '791 is silent as to any signal that causes the storing of operating instructions that function as claimed by Applicants (tier codes as indicated in the office action).. Assuming arguendo, that a an instruct signal effective to cause storing is inherently taught by Campbell '791, the tier codes do not function as Applicants claimed operating instructions, as so stated.

Although, Campbell '791 teaches channel control signals that cause the converter to compare the tier codes (operating instructions as indicating in the office action), the tier codes do not function as Applicants' claimed operating instructions. Therefore, Campbell '791 is silent as to transmitting from a second remote source to said receiver station a signal which controls said receiver station to process said operating instructions and perform said first function of said plurality of different functions. The tier codes of Campbell '791 are silent as to performing any function. The tier codes are simply a means of defining the level of access.

With respect to Applicants' **claim 14**, Campbell '791 fails to teach, *inter alia*, an instruct signal being effective at a receiver station to store at least one operating instruction at a storage device associated with a processor and at least one control signal which at the remote intermediate transmitter station operates to control the communication of said instruct signal.

The office action equates the channel control word 200 and the control identifier 201 in Fig. 11

of Campbell '791 to Applicants' claimed instruct signal and control signal. In addition, the office action states that operating instructions are inherently present in the converter 40 of Campbell '791. Applicants submit that the channel control word and control identifier of Campbell '791 are simply used to identify the program to the converter 40 of each user station so that a determination may be made as to whether the converter will be enabled to process the given television signal. Col. 13 lines 3-7. There is no suggestion that the channel control word of Campbell '791 is effective at a receiver station to store at least one operating instruction at a storage device or that the control identifier of the channel control word operates to control the communication of said instruct signal (channel control word as indicated in the office action). Further, even if Campbell '791 inherently teaches operating instructions at converter 40, as stated in the office action, Campbell '791 is still silent as to any instruct signal that stores operating instructions or any control signal that communicates the instruct signal.

Further, as stated, Campbell '791 fails to suggest or describe an instruct signal, operating instructions, or a control signal that functions as Applicants' claim. Therefore, Campbell '791 is utterly silent as to transmitting said at least one control signal from said at least one origination transmitter station to said at least origination transmitter before a specific time. Although, Campbell '791 alludes to enabling a subscriber to access a given channel 'at a specific time", Campbell '791 is silent as to transmitting a control signal that functions as claimed *before* that specific time.

Claims 10-12, 15, and 16 depend upon any one of independent claims 8, 9, 13, or 14. As discussed *supra*, Campbell '791 fails to disclose every element of claims 8, 9, 13, and 14 and thus, *ipso facto*, Campbell '791 fails to anticipate dependent claims 10-12, 15, and 16, and therefore, this rejection should be withdrawn and the claims be permitted to issue.

Applicants respectfully submit that the cited art does not anticipate claims 8-16 since the reference fails to disclose every element of the claimed invention, and Applicants respectfully request that the 35 U.S.C. § 102 (b) rejection of claims 8-16 be withdrawn.

#### **D. Response to Obviousness Rejection of Claims**

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference to combine the teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references combined) must teach or suggest all the claim recitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not based on Applicants' disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). MPEP 706.02(j).

##### **1. 35 U.S.C. § 103 (a) Rejection over Saeki '570 in view of Block '884**

Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saeki '570 in view of Block '884.

Claims 4 and 6 depend upon independent claims 2 and 5, respectively. As discussed *supra*, Saeki '570 in view of Block '884 fails to disclose every element of claims 4 and 6 and thus, *ipso facto*, Saeki '570 in view of Block '884 fails to anticipate dependent claims 4 and 6, and therefore, this rejection should be withdrawn and the claim be permitted to issue. If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Applicants respectfully request that the 35 U.S.C. §103(a) rejection of claims 4 and 6 be withdrawn.

### III. CONCLUSION

In accordance with the foregoing it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. Further, all pending claims are patentably distinguishable over the prior art of record, taken in any proper combination. Thus, there being no further outstanding objections or rejections, the application is submitted as being in a condition for allowance, which action is earnestly solicited.

If the Examiner has any remaining informalities to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such informalities.

Respectfully submitted,



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